

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JEROME CEASAR ALVERTO,

Plaintiff,

v.

BRYAN DWAIN CLINE,

Defendant.

CASE NO. 3:19-CV-05053-RBL

ORDER ON MOTION FOR  
RECONSIDERATION

DKT. # 24

THIS MATTER is before the Court on Plaintiff Jerome Ceasar Alverto's Motion for Reconsideration. Dkt. # 24. The Court previously adopted Magistrate Judge Fricke's Report and Recommendation that this case be dismissed in its entirety with prejudice. Dkt. # 22. The justification for the dismissal was Alverto's failure to satisfy the 3-year statute of limitations for his excessive force claim (the incident occurred 13 years ago) and the decision not to exercise supplemental jurisdiction over Alverto's remaining state law claims. Dkt. # 18. Now, Alverto asks the Court to revise this decision and dismiss his claims without prejudice. According to Alverto, this is necessary because his claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994) so the Court should not have reached the statute of limitations issue.

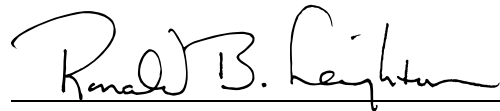
1 Pursuant to Local Rule 7(h)(1), motions for reconsideration are disfavored, and will  
2 ordinarily be denied unless there is a showing of (a) manifest error in the ruling, or (b) facts or  
3 legal authority which could not have been brought to the attention of the court earlier, through  
4 reasonable diligence. The term “manifest error” is “an error that is plain and indisputable, and  
5 that amounts to a complete disregard of the controlling law or the credible evidence in the  
6 record.” Black’s Law Dictionary 622 (9th ed. 2009).

7 Reconsideration is an “extraordinary remedy, to be used sparingly in the interests of  
8 finality and conservation of judicial resources.” *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d  
9 877, 890 (9th Cir. 2000). “[A] motion for reconsideration should not be granted, absent highly  
10 unusual circumstances, unless the district court is presented with newly discovered evidence,  
11 committed clear error, or if there is an intervening change in the controlling law.” *Marlyn*  
12 *Natraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009). Neither  
13 the Local Civil Rules nor the Federal Rule of Civil Procedure, which allow for a motion for  
14 reconsideration, is intended to provide litigants with a second bite at the apple. A motion for  
15 reconsideration should not be used to ask a court to rethink what the court had already thought  
16 through — rightly or wrongly. *Defenders of Wildlife v. Browner*, 909 F.Supp. 1342, 1351 (D.  
17 Ariz. 1995). Mere disagreement with a previous order is an insufficient basis for  
18 reconsideration, and reconsideration may not be based on evidence and legal arguments that  
19 could have been presented at the time of the challenged decision. *Haw. Stevedores, Inc. v. HT &*  
20 *T Co.*, 363 F.Supp.2d 1253, 1269 (D. Haw. 2005). “Whether or not to grant reconsideration is  
21 committed to the sound discretion of the court.” *Navajo Nation v. Confederated Tribes & Bands*  
22 *of the Yakima Indian Nation*, 331 F.3d 1041, 1046 (9th Cir. 2003).

1 Alverto's argument does not meet the high bar for reconsideration. He does not explain  
2 why dismissal under *Heck* somehow trumps the statute of limitations issue or why his claims are  
3 in fact timely. Even if the Court were to do what Alverto asks, the same timeliness issue would  
4 only arise again if he re-filed. His Motion is therefore DENIED.

5 IT IS SO ORDERED.

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7 Dated this 6<sup>th</sup> day of September, 2019.

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10 Ronald B. Leighton  
United States District Judge